

REMARKS

Applicant respectfully submits that, with the amendments set forth herein, the application is in condition for allowance.

Specifically, claims 24-26, 29 and 34 were indicated to be allowable if rewritten in independent form and amended to overcome the 35 U.S.C. §112 rejections.

Applicant respectfully traverses the rejection of the claims under 35 U.S.C. §112, first paragraph. The Office Action acknowledges that the application discloses an inlet in one header, but then incorrectly states:

What was originally disclosed was an outlet in the second header and no more. There is no original description of invention in the original disclosure to support a claim limitation that the outlet and inlet are both in the first header.

In fact, the presence of an inlet and outlet in the same header was specifically disclosed at page 5, lines 17-20 of the application as follows:

It should also be understood, however, that within the broad scope of the invention it would be possible to use the present invention with multipass heat exchangers which, as is understood in the art, have the inlet and outlet in the same headers where there are even numbers of passes.

Applicant also respectfully traverses the rejection of claims 19-29 under 35 U.S.C. §112, second paragraph since it is believed to be clear which tubes constitute "end tubes". Specifically, the plurality of flat tubes are recited as being substantially parallel "between first and second end tubes" (claim 19,

lines 12-13), such that the claim is clear in reciting that the other tubes are between the end tubes.

With respect to the 35 U.S.C. § 112, second paragraph rejection of claim 34, the claim has been amended to incorporate the following language (comparable to that found in independent claims 19 and 29):

said flat members including first and second end flat members
between which the other of the plurality of generally flat members
are disposed

(Claim 34 as currently amended, lines 9-11.)

It should, however, be noted that neither the specification nor the above claim language should be interpreted to mean that the end tube or end flat members themselves define, as suggested in the Office Action, "the peripheral edge of the heat exchanger". As illustrated in Figs. 6 and 9, for example, and stated at page 10, lines 19-20 of the application, beyond the end tube there may be additional structure such as a row of fins 156 and a side piece (160 in Fig. 6, 160A in Fig. 9).

Given that the claims presented herein are proper under 35 U.S.C. § 112, they are further submitted to be in allowable form in view of the following:

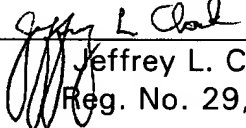
- I. Independent claim 19 has been amended to incorporate the limitations of allowable claim 24 (which has therefore been canceled). Accordingly, claim 19 is in proper form for allowance, as are claims 20-23 and 25-28 which variously depend from claim 19.

- II. Allowable claim 29 has been amended to place it in independent form by incorporating the limitations of base claims 19, 27 and 28.
- III. Allowable claim 34 has been amended to place it in independent form by incorporating the limitations of base claim 30, with the caveat that claim 34 now recites that at least three of the four recited heat exchangers comprise the structure previously recited in base claim 30. This is consistent with the specific disclosure in the application of three heat exchangers (e.g., heat exchangers 52, 54, 56) of the four being substantially the same. For example, the fourth heat exchanger 40 is not shown in the application to have the recited rectangular connectors. Therefore, it is not believed that this change creates a new patentability issue, but instead is merely a change consistent with the application.
- IV. New claims 35-37 all depend from claim 34. Claims 35-37 correspond to withdrawn claims 31-33, respectively, which depend from withdrawn claim 30. Since the limitations of claim 30 have been incorporated into claim 34, no new issue should therefore be presented with claims 35-37. (Claims 31-33 could have been amended to make them dependent on claim 34, but claims 34-37 have instead been added as a cleaner alternative. To speed examination, claims 30-33 have also been canceled herein without prejudice to file a divisional application thereon.)

In view of the above, all of claims 19-23, 25-29 and 34-37 are submitted to be in condition for allowance. Early notification to that effect is respectfully requested.

Respectfully submitted,

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